

Provisional Election

Applicants provisionally elect compound II-5 (Pyraclostrobin) as a single species of formula I (claims 6, 16, 17, 19 – 30), and [3-(4,5-dihydroisoxazol-e-yl)-4-methane-sulfonyl-2-methylphenyl]-(5-hydroxy-1-methyl-1H-pyrazol-4-yl)-methanone (compound B) as a single herbicidal crop protection product (claims 4 – 6, 16 – 25, 27 – 30).

Remarks

The requirement for restriction is traversed. The present application is a national stage entry of a PCT application, and that "...unity of invention not restriction practice pursuant to 37 CFR 1.141 - 1.146 is applicable in international applications and in national stage applications submitted under 35 U.S.C. 371."

Under PCT Rule 13, the appropriate legal standard regarding restriction is whether "[t]he international application ... relate[s] to one invention only or to a group of inventions so linked as to form a single general inventive concept."¹ Furthermore, "[w]here a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art."² It is respectfully submitted that the present invention properly relates to a single general inventive concept.

The principles of Unity of Invention with respect to the present invention were discussed in the paper filed August 15, 2007.

The Unity of Invention standard requires consideration of the claimed invention as a whole, and does not provide a basis to require election of a single species of either Formula I, or a single herbicidal crop protection product. All of the pending claims depend from claim 16, and are, therefore, directed to a method for increasing the

¹ PCT RULE 13.1.

² PCT RULE 13.2.

resistance of plants to the phytotoxicity of other crop protection products, which comprises treating the plants, the soil or seeds with an effective amount of a compound of formula I. Furthermore, all of the pending claims include the technical feature that compounds of Formula I are applied together, that is before, after or concomitantly, with at least one phytotoxic agrochemical, wherein the phytotoxic agrochemical is a herbicidal crop protection product. These technical features define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. It is respectfully submitted, therefore, that the present invention properly relates to a single general inventive concept.

In Conclusion:

The present requirement for restriction is in error and should be withdrawn. In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner is welcome to contact the undersigned by phone to further the discussion.

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